

In re Appln. of Antrim et al
Application No 09/614,961 09/614,961

REMARKS

In light of the foregoing amendments, applicants respectfully submit that the present application is in condition for allowance.

The Office Action

In the Office Action, a double patenting rejection was set forth, as well as a rejection of the pending claims over Borden et al., U.S. Patent 5,601,863. The Examiner also noted a claim objection and claim rejection under 35 U.S.C. Section 112.

The Claim Amendments

The claims have been amended in a non-narrowing fashion with respect to the amendments to address the claim objection and rejections under 35 U.S.C. Section 112. In addition, the claims have been amended to specify that the mixture of malto-oligosaccharides comprises a maltodextrin.

Full support for the "at least 40%" limitation can be found in the specification at page 7, line 26. The examiner is advised that in a related foreign application an examiner is objecting to "at least 40 %" where not paired with the "75%" language found on page 7 line 24. Applicants do not concur with the foreign examiner in this respect and request that no rejection based on new matter or other matter be entered here. No new matter has been added by way of any of the foregoing amendments.

Discussion

With respect to the double patenting rejection, applicants at present are planning to submit a terminal disclaimer upon receipt of a Notice of Allowance in copending application 09/366,065.

With respect to the rejections over Borden, the applicants respectfully request that these rejections not be applied to the new claims. Borden purports to describe hydrogenation of polydextrose or polymaltose, but is silent as to hydrogenation of maltodextrin. As discussed previously with the examiner in connection with an interview in application number 09/366,065, it is not obvious to extrapolate the teachings of Borden

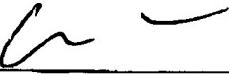
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and apply them to a maltodextrin in light of the differences between maltodextrins and the poly dextrose/maltose described in the reference.

Conclusion

For these reasons, allowance of the application is respectfully and earnestly solicited.

Respectfully submitted,


Allen E. Hoover, Reg. No. 37,354
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

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